

Claimant was injured on October 26, 1995 and received authorized medical treatment first from Dr. David H. Clark and then from Dr. David A. Peterson. On February 22, 1996, Dr. Peterson released claimant from further treatment but expressly noted "Will see her back on an as needed basis." Claimant was neither provided with an impairment rating at that time nor given any other indication that her treatment was no longer authorized. Thereafter claimant continued to see Dr. Peterson periodically at the hospital where claimant worked. On at least two occasions claimant consulted with

Dr. Peterson about her injury and he examined claimant's range of motion. These visits/examinations were of an informal nature. Dr. Peterson made no notes and did not bill respondent for his services.

In January 1997 claimant returned to Dr. Clark with additional shoulder problems. Dr. Clark referred claimant back to Dr. Peterson, whom she saw on January 29, 1997. Thereafter, claimant continued to treat with Dr. Peterson until he determined she had reached maximum medical improvement and gave her an impairment rating.

### **CONCLUSIONS OF LAW**

Respondent contends this claim is barred by K.S.A. 44-520a because claimant failed to serve upon respondent a written claim for compensation within 200 days of her February 22, 1996 release by Dr. Peterson.<sup>1</sup> Claimant contends that her informal visits with Dr. Peterson between February 22, 1996 and January 29, 1997 constituted medical treatment and thus payment of compensation.<sup>2</sup> In the alternative, claimant contends she was never told that treatment with Dr. Peterson would no longer be authorized and therefore when Dr. Peterson released her to return as needed she was relying upon an ongoing relationship with Dr. Peterson.<sup>3</sup> Accordingly, the time for filing written claim did not begin to run until she was rated and released by Dr. Peterson on April 8, 1997. The Appeals Board agrees.

Respondent contends this case is similar to the facts in Shields v. J. E. Dunn Construction Co.,<sup>4</sup> and argues for a similar result. But respondent's reliance upon Shields is misplaced because in this case claimant kept all of her appointments and followed the treatment recommendations of her physician. The physician/patient relationship was never abandoned. Furthermore, claimant was never given to believe that respondent's authorization of Dr. Peterson was withdrawn or terminated.

### **AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Bruce E. Moore dated October 15, 1998, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

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<sup>1</sup> Lawrence v. Cobler, 22 Kan. App. 2d 291, 294, 915 P.2d 157, *rev. denied* 260 Kan. 994 (1996).

<sup>2</sup> Sparks v. Wichita White Truck Trailer Center, Inc., 7 Kan. App. 2d 383, 642 P.2d 574 (1982).

<sup>3</sup> Blake v. Hutchinson Manufacturing Co., 213 Kan. 511, 515, 516 P.2d 1008 (1973).

<sup>4</sup> 24 Kan. App. 2d 382, 946 P.2d 94 (1997).

Dated this \_\_\_\_ day of October 1999.

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BOARD MEMBER

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c: James D. Wenger, Clay Center, KS  
Wade A. Dorothy, Lenexa, KS  
Bruce E. Moore, Administrative Law Judge  
Philip S. Harness, Director